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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,462	07/11/2003	Guangming Yin	BP1817CON1	3869
34399	7590	02/25/2004	EXAMINER	
GARLICK HARRISON & MARKISON LLP			NGUYEN, PATRICIA T	
P.O. BOX 160727			ART UNIT	
AUSTIN, TX 78716-0727			PAPER NUMBER	

2817

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/618,462

Applicant(s)

YIN ET AL.

Examiner

Patricia T Nguyen

Art Unit

2817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11, 16 and 23 is/are rejected.
- 7) ☒ Claim(s) 6-10, 12-15, 17-22 and 24-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-5 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5 of prior U.S. Patent No. 6,624,699 B2. This is a double patenting rejection.

### ***Drawings***

The drawings are objected to because Figs 1 and 2 do not have the connections of a first shunt peaking inductor, a second shunt peaking inductor, a first output resistor, and a second output resistor as claimed in claim 6.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 6-10 are objected to because of the following informalities:

In claim 6, page 20, lines 13-24, a first shunt peaking inductor, a second shunt peaking inductor, a first output resistor, and a second output resistor do not connect as shown in Fig. 1.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 16, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al, U.S. Patent # 6,414,558 B1 in view of Moloudi et al., U.S. Patent # 6,417,737 B1.

Fig. 4A of Ryan et al. discloses a circuit comprising: amplifiers 403A can be read as a first amplifier stage, 403B can be read as an intermediate amplifier stage, 403C can be read as a last amplifier stage.

Although Ryan et al. does not have series peaking inductors and shunt peaking inductors, Moloudi et al. teaches in Fig. 4(a) an amplifier stage that has inductors 465, 469 that can be read as series peaking inductors and inductors 490, 492 can be read as shunt peaking inductors. Therefore, it would have been obvious at the time the

invention was made to a person having ordinary skill in the art to use the amplifier of Moloudi et al. for the first, intermediate, and last amplifier stages of Ryan et al. circuit to have a cascade circuit to achieve higher gain in order to meet system requirements since this is a matter of design choice.

Claims 11, 16, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al, U.S. Patent # 6,414,558 B1 in view of Belot, U.S. Patent # 6,366,166 B1.

Fig. 4A of Ryan et al. discloses a circuit comprising: amplifiers 403A can be read as a first amplifier stage, 403B can be read as an intermediate amplifier stage, 403C can be read as a last amplifier stage.

Although Ryan et al. does not have series peaking inductors and shunt peaking inductors, Belot teaches in Fig. 4 an amplifier stage that has inductors 40, 41 that can be read as series peaking inductors and inductors 34, 36 can be read as shunt peaking inductors. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the amplifier of Belot for the first, intermediate, and last amplifier stages of Ryan et al. circuit to have a cascade circuit to achieve higher gain in order to meet system requirements since this is a matter of design choice.

***Allowable Subject Matter***

Claims 12-15, 17-22, and 24-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents # 6,259,321 B1 and 6,340,899 B1 contains some limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia T Nguyen whose telephone number is (703) 308-1927. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on 703-309-4940. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTN  
February 20, 2004

**PATRICIA NGUYEN**  
**PRIMARY EXAMINER**

*Patricia Nguyen*